

**BEFORE THE STATE BOARD OF MEDIATION  
STATE OF MISSOURI**

UNITED FOOD & COMMERCIAL WORKERS	)	
UNION, LOCAL 655,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Public Case No. R 87-012
	)	
CITY OF SIKESTON,	)	
	)	
Respondent.	)	

**JURISDICTIONAL STATEMENT**

This case appears before the State Board of Mediation upon the filing by United Food & Commercial Workers Union, Local 655, of a Petition for Certification as Public Employee Representative of certain employees of the public works department of the City of Sikeston, Missouri. A hearing was held on February 17, 1987 in Sikeston, Missouri at which representatives of Local 655 and the City of Sikeston were present. The case was heard by State Board of Mediation Chairman Mary Gant. Upon agreement by the parties, a record of the hearing was submitted to employer member Norman Litz and employee member Charles Yaeger for decision.

The State Board of Mediation is authorized to hear and decide the issues concerning appropriate bargaining units by virtue of Section 105.525, RSMo. 1978.

At the hearing, the parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

Local 655 has filed a petition to be certified as public employee representative for certain employees of the public works department of the City of Sikeston, Missouri. Prior to the hearing, the parties stipulated that those workers employed as airport

linemen and vehicle maintenance supervisors were properly included into the appropriate bargaining unit. Further, the parties stipulated that the code enforcement officer, planning coordinator, building inspector, and recreation manager would be allowed to vote subject to challenge if their ballots proved to be determinative to the outcome of the election. The only remaining issue before the Board is whether the four employees classified as working crew leaders should be included in the appropriate bargaining unit.

The City of Sikeston is administered by the city manager. There are four major departments within the city: general government, administrative services, public works department and public safety department. The testimony adduced at trial involved four public works department employees categorized as working crew leaders. The public works department is supervised by the city engineer who works as the director of public works. This department is responsible for all storm sewer maintenance and construction, street maintenance, park maintenance, airport operation and community planning and development. There are four divisions within the public works department. Three of the working crew leaders work in the street division whereas one is assigned to the parks division. Testimony presented at the hearing established that the working crew leaders meet daily with the public works superintendent and the public works director. The crew leaders are briefed on the various jobs to be done that day and then return to their respective crews to pass on the information. Further, the crew leaders assist in getting the tools and equipment necessitated by the specific job. Once the assignments are made in the morning, the working crew leaders work alongside other workers, operating equipment, mowing grass or doing any work necessary to accomplish the job. The crew leaders have no authority to discipline, hire, fire or recommend such personnel matters concerning any other employee. On occasion, working crew leaders provide input to the public works superintendent concerning certain employees. For instance, a disciplinary matter will be brought to the attention of

the superintendent who will in turn independently investigate the incident and take the necessary action.

The evidence indicates that the working crew leaders acquire their position largely on the basis of seniority and pay grade. Three of the working crew leaders have from 15 to 23 years of seniority. Unlike other non-supervisory employees, working crew leaders have an option to either be paid for their overtime or receive compensatory time.

As stated above, one of the four working crew leaders is then assigned to the park division. This employee substitutes for the superintendent during any absence. Usually, this consists of four to five weeks during which this working crew leader takes on the responsibility of the superintendent. This employee has at least on one occasion made evaluations of other employees that were used in determining pay raise recommendations. However, there is no evidence that the evaluations were used in determining whether an employee should receive a promotion or pay raise. Also the superintendent testified that in the future no working crew leaders should participate in the evaluation process.

### **CONCLUSIONS OF LAW**

Local 655 has petitioned to be certified as public employee representative of a bargaining unit consisting of all employees of the public works department of the City of Sikeston excluding supervisory and clerical employees. It has been stipulated by the parties that the chief engineer, public works supervisor and airport manager should be excluded from the bargaining unit because of their supervisory status. It has also been stipulated that the secretaries assigned to the public works department be excluded as not having a sufficient community of interest with the other employees to justify their inclusion in the unit. Further stipulated by the parties was that the street equipment operator, airport lineman, and vehicle maintenance supervisor be included in the appropriate bargaining unit. Finally, the parties have agreed that those employees in the position of code enforcement officer, planning coordinator, building inspector, and

recreation manager, be allowed to vote subject to challenge should their vote be determinative of the election. Accordingly, the only issue before the Board is whether the four employees classified as working crew leaders are supervisors and thus should be excluded from the bargaining unit.

Local 655 contends that only the working crew leader assigned to the parks division possesses true supervisory status. As to the other three crew leaders, Local 655 asserts that one such crew leader is not a supervisor and thus should be included in the appropriate bargaining unit. Local 655 does not take a position as to the remaining two persons classified as working crew leaders. The City contends that all four employees are not supervisors and, therefore, should be included in the appropriate bargaining unit. The issue before the Board concerning the working crew leaders is whether they are supervisors to be excluded from the unit in that the Board has consistently held that supervisors cannot be included in the same bargaining unit as the employees they supervise. St. Louis Firefighters Association, Local 73, v. City of St. Louis, Case No. 76-113 (SBM 1976); see Golden Valley Memorial Hospital v. Missouri State Board of Mediation, 559 S.W.2d 581 (Mo.App. 1977). To determine the appropriate bargaining unit as it concerns the working crew leaders, the Board must determine whether they are in fact true supervisors. In determining the supervisory status of employees within bargaining units, the Board has consistently examined the following factors:

- (1) The authority to effectively recommend the hiring, promotion, transfer, discipline, or discharge of employees.
- (2) The authority to direct and assign the work force, including a consideration of the amount of independent judgment and discretion exercised in such matters.
- (3) The number of employees supervised and the number of other persons exercising greater, similar or lesser authority over the same employees.

- (4) The level of pay including an evaluation of whether the supervisor is paid for a skill or for supervision of employees.
- (5) Whether the supervisor is primarily supervising an activity or primarily supervising employees.
- (6) Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees.

Concerning the working crew leaders assigned to the street division, the record is clear that they play no role in the hiring, firing or promotion of other employees. There is no evidence that they assign subordinate employees to their crew. Instead, the crew leaders receive their assignments from the street superintendent and relay the information to the other employees. The record is clear that the crew leaders work alongside the other employees and are more involved in seeing that a job is completed satisfactorily rather than actually supervising the crewmembers. Without question, the record as a whole indicates that the working crew leaders assigned to the street division are involved primarily with supervising activities and specific jobs rather than supervising the employees. In view of the foregoing, the Board finds that the working crew leaders assigned to the street division possess authority analogous to that of the lead man and not that of a true supervisor and, therefore, should be included in the appropriate bargaining unit.

Concerning the crew leader assigned to the parks division of the department of public works, the Board finds that the evidence does not establish that this crew leader is in fact a true supervisor. Although the crew leader assigned to the parks division substitutes as the public works superintendent for approximately five weeks per year, such temporary status as a supervisor is not sufficient to exclude this employee from the appropriate bargaining unit. Also, even though on one occasion the parks division crew leader made evaluations of other employees, the record as a whole does not establish that these evaluations were taken into consideration in determining merit increases. To

the contrary, the testimony indicated that no working crew leaders will again be involved in the evaluation process. Accordingly, the Board rules that the working crew leader assigned to the parks division, like the other working crew leaders, is not in fact a true supervisor and thus should be included in the bargaining unit.

### **DECISION**

It is the decision of the State Board of Mediation that an appropriate bargaining unit of employees is as follows: All employees of the public works department of the City of Sikeston, Missouri, including all working crew leaders, vehicle maintenance supervisor, airport linemen, street equipment operator, but excluding clerical employees, chief engineer, public works supervisor and airport manager.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found appropriate, as early as possible, but not later than thirty days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during the period because of vacation or illness. Ineligible to vote are those employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election. Those eligible to vote shall vote whether or not they desire to be represented for the purposes of exclusive recognition by United Food & Commercial Workers Union, Local 655.

It is hereby ordered that the City shall submit to the Chairman of the State Board of Mediation, as well as to Local 655, within fourteen days from the date of receipt of this decision an alphabetical list of names and addresses of employees in the unit determined above to be appropriate who were employed during the payroll period immediately preceding the date of this decision.

Signed this 23rd day of April, 1987.

(SEAL)

STATE BOARD OF MEDIATION

/s/ Mary L. Gant  
MARY L. GANT, Chairman

/s/ C. J. Yaeger  
CHARLES YAEGER, Employee Member

/s/ Norman Litz  
NORMAN LITZ, Employer Member